

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION**

SANQARELL ANTONIO JERNINGHAN

PETITIONER

VS.

CIVIL ACTION NO. 4:06CV94LS

RONALD KING

RESPONDENT

ORDER

This matter is before the court on the Petitioner's Motion for Release, by which he seeks to be released from state custody, pending a decision on his Petition for Writ of Habeas Corpus, either on his own recognizance or by the setting of a surety bond. Jerningham is in the custody of the Mississippi Department of Corrections by virtue of a conviction for the sale of cocaine. His conviction has been affirmed on appeal, and his petition for post-conviction relief has been denied. Jerningham has been through every means of state court review currently available to him, and no state court has ordered his release.

Jerningham's case is now before the federal court for review. This is not part of the appeal process, and a bond pending appeal is not available to him. The federal court has no authority to order that Jerningham be released on any terms unless it grants his Petition. The court cannot grant that Petition until the Respondent has answered his Petition and the state court record is sent to this court. Until that time, the court cannot rule on the merits of his Petition, and there is no other authority for the federal court to order his release.

IT IS, THEREFORE, ORDERED that the Petitioner's Motion for Release is hereby **denied**.

IT IS SO ORDERED, this the 2nd day of August, 2006.

S/James C. Sumner

UNITED STATES MAGISTRATE JUDGE